

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

GERALD THOMPSON,
Plaintiff/Appellant,

vs.

OHIO DEPARTMENT OF
REHAB. & CORR., et al.,
Defendants/Appellees.

Case No. 1:18-cv-24
Dlott, J.
Litkovitz, M.J.

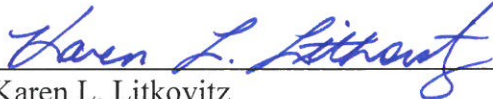
**REPORT AND
RECOMMENDATION**

Plaintiff/appellant is an inmate at the Southern Ohio Correctional Facility (SOCF) in Lucasville, Ohio who is prohibited by 28 U.S.C. § 1915(g) from proceeding *in forma pauperis* in this case because he has on three or more prior occasions while incarcerated brought an action that was dismissed on the ground that it is frivolous, malicious, or fails to state a claim upon which relief may be granted. (Docs. 2, 4). On August 3, 2018, the Court entered a final order and judgment dismissing plaintiff/appellant's civil complaint for lack of prosecution because plaintiff/appellant had failed to comply with the Court's March 12, 2018 Order denying his application to proceed *in forma pauperis* under 28 U.S.C. § 1915(g) and directing him to pay within thirty days the full \$400 fee required to commence the action. (*See* Docs. 4, 10, 11).

On September 12, 2018, plaintiff/appellant filed a notice of appeal to the United States Court of Appeals for the Sixth Circuit. (Doc. 13). Plaintiff/appellant has failed to submit the \$455.00 filing fee or a motion to proceed *in forma pauperis* on appeal. The Court will not enter a deficiency order in this regard, however, because under the "three strikes" provision set forth in 28 U.S.C. § 1915(g), plaintiff/appellant is prohibited from obtaining pauper status for the purpose of appealing the judgment in this civil action. *See* 28 U.S.C. § 1915(g). Accordingly, plaintiff/appellant is not entitled to proceed on appeal without paying the filing fee. It is

therefore **RECOMMENDED** that plaintiff/appellant be assessed the appellate filing fee and be given thirty days within which to pay it.

Date: 9/13/18



Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).